

## REMARKS

Reconsideration of the present application is respectfully requested.

### Summary of Office Action

Claims 1, 4-12, 19-22, 24-28 and 30-34 stand rejected under 35 U.S.C. § 103(a) based on Alexander, III et al. 6,513,155 ("Alexander") in view of Murstein et al. 6,789,046 ("Murstein").

### Amendments

Applicants have amended claims 1, 4, 5, 10, 19, 20, 21, 25, 26, 27, 31, 32, and 34.

### Discussion of Rejections

The Examiner argued that the combination of references broadly and clearly teaches the invention as claimed. However, Applicants respectfully disagree for the reasons below.

#### **I. The combination of Alexander and Murstein fails to disclose or suggest the recited counter group template.**

Per Alexander, a system and method can monitor code executing on a data processing system. In the office action dated 01/04/2009, on page 2, the Examiner noted that "...Alexander does not explicitly detail on defining a counter group template..." which is understood to mean that Alexander does not teach or suggest the counter group template. However, the Examiner asserted that Murstein teaches that limitation.

In arguing that Murstein discloses that limitation, the Examiner stated that Murstein is directed to monitoring and gathering performance metrics and cited several

sections. However, Applicants assert that the invention is not obvious over Murstein because Murstein neither teaches nor suggests a "counter group template" and does not teach or suggest "defining a counter group template" as recited, in e.g., claim 1.

In support of his arguments, the Examiner cited Murstein's summary 2:15-65, abstract, and background 1:60 – 2:14. These sections discussed the problem Murstein sought to solve as "getting a quick response view of pertinent performance metrics associated with the plurality of serve[r]s." Murstein 2:5-6. The cited sections do not identify a counter group template or any manner of defining a counter group template, but merely describe Murstein's field of endeavor.

The solution offered by Murstein is also cited by the Examiner: "In one aspect of the invention, the performance metric types are logged to a data store based on a predefined time period and resolution for each member. The data is then dynamically aggregated to data of larger time periods and larger time resolutions." Murstein 2:36-40. These teachings do not offer any manner of "defining a counter group template" as recited by claim 1, but merely teach generic data collection.

The Examiner does not articulate how the cited reference discloses or suggests Applicants' recited counter group template. Further, Applicants assert that Murstein does not otherwise teach or suggest the recited counter group template. Therefore, the invention is not obvious over Alexander in view of Murstein.

Further, claim 1 is patentable for other reasons as well.

## **II. The combination of Alexander and Murstein fails to teach or suggest a host offering networked storage services.**

Previously, Applicants amended claim 1 to recite "a host offering networked storage services." However, in the office action mailed 3/4/09 the Examiner did not address this limitation. Therefore, Applicants explicitly request that the Examiner

address this limitation in the next office action, if the claims are not allowed in response to this submission.

The limitation is not found in either Murstein or Alexander; there is simply no teaching or suggestion of a host offering network storage services in either reference. It follows that the combination of Murstein and Alexander fail to render the invention obvious, for failing to teach or suggest each limitation in the claim. Therefore, claim 1 is patentable over the cited prior art for this reason as well.

Further, claim 1 is patentable for other reasons as well.

**III. Alexander – Murstein fail to disclose a network storage management server operating in relation to a host offering networked storage services to a set of clients over a network**

As amended, claim 1 recites "within a network storage management server, automatically discovering a counter that collects data describing activity of a performance object within a host offering networked storage services to a set of clients over a network."

Neither Alexander nor Murstein teaches or suggests a **network storage management server**. Therefore, neither reference teaches or suggests all of the limitations of claim 1. Thus, Applicants submit that claim 1 is patentable over the cited prior art.

**Independent Claims 10, 19, 21, 25, 27, and 31**

Independent claims 10, 19, 21, 25, 27, and 31 each include limitations similar to those found in claim 1 and discussed above in arguments I, II, and III. Therefore, for at least the same reasons as discussed in regard to claim 1, Applicants submit that claims 10, 19, 21, 25, 27, and 31 are patentable over the cited prior art as well.

**IV. Alexander – Murstein do not teach or suggest that the performance objects are physical subsystems of the host**

**Independent Claims 1, 19, 25 and 31**

Independent claims 1, 19, 25 and 31, each recite "the performance objects are **physical subsystems of the host.**" This limitation is not found in independent claims 10, 21, and 27. Therefore claims 1, 19, 25, and 31 do not stand or fall with claims 10, 21, and 27.

Previously these claims recited "logical or physical subsystem," and the Examiner cited language in Alexander, particularly fig. 18, col. 11:45-50 in regard to a "program counter," which does not collect data from a "physical subsystem," as recited in claims 1, 19, 25, and 31.

Alexander is directed to "event-based profiling and sample-based profiling of an application within the same time period." Alexander 9:21-22. However, Applicants' above mentioned claims recite limitations regarding a "physical subsystem," which an "application" is not. Therefore, Alexander does not teach that the performance object is a physical subsystem. Thus, Applicants respectfully request that the Examiner withdraw the rejection citing to Alexander.

In regard to Murstein, the reference teaches gathering data from entities, stating that "entities may include a plurality of members, (e.g. computers, servers, clusters) collectively cooperating as a whole." See Murstein 2:18-20. However, such "members" are different from Applicants' recited performance objects because Murstein's "member" is analogous to a host rather than a physical subsystem of a host, as recited. See, e.g. Murstein 2:18-20.

Further, consider this argument in the context of argument II which regarded "a host offering networked storage services to a set of clients over a network." Murstein would not teach or suggest that performance objects are physical subsystems of the host because Murstein does not even consider this kind of host.

Therefore, Applicants submit that Murstein teaches a different technology than Applicants' technology. Thus, Applicants submit that claims 1, 19, 25 and 31 are patentable over the cited prior art for these reasons as well as those discussed above.

Applicants have not necessarily discussed here every reason why every pending independent claim is patentable over the cited art; nonetheless, Applicants are not waiving any argument regarding any such reason or reasons. Applicants reserve the right to raise any such additional argument(s) during the future prosecution of this application, if Applicants deem it necessary or appropriate to do so.

#### Dependent Claims

In view of the above remarks, a specific discussion of the dependent claims is considered to be unnecessary. Therefore, Applicants' silence regarding any dependent claim is not to be interpreted as agreement with, or acquiescence to, the rejection of such claim or as waiving any argument regarding that claim.

## CONCLUSION

For the foregoing reasons, the present application is believed to be in condition for allowance, and such action is earnestly requested. The Director is authorized to charge Deposit Account 50-2207 for any fees associated with this submission.

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Respectfully submitted,

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